

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8655 of 1996

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?
- Points Nos. 1 to 5 - No
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GUMANDEV COOPERATIVE HOUSING SOCIETY LTD

Versus

STATE OF GUJARAT

Appearance:

MS KJ BRAHMBHATT for Petitioners
Mr.T.H.Sompura, AGP. for Respondent No. 1

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 24/12/96

ORAL JUDGEMENT

Heard learned Advocates for the parties.
Rule returnable today.

Learned Assistant Government Pleader
Mr.T.H.Sompura waives service of Rule on behalf of the respondent.

Petitioners Nos.2 & 3 are the owners of the lands bearing survey Nos.296 and 298 and petitioner No.4 is the owner of land bearing survey No.284 Paiki, all situated at Rander in Taluka Choryasi within Surat Urban

Agglomeration. Said petitioners and petitioner No.1 made an applications to the Government for exemption under section 20(1) (b) for the purpose of construction of houses for the members of the petitioner No.1 Society. In view of the decision of the Hon'ble Supreme Court in the matter of S.Vasudeva vs. State of Karnataka and Ors. (Judgment Today 1993(2) S.C.465) the said application was rejected on 17th December, 1992. Feeling aggrieved the petitioners have preferred this petition. Learned Advocate Miss Shah appearing for the petitioners has submitted that the decision rendered by the Hon'ble Supreme Court in the matter of S.Vasudevan(supra) does not hold the field in view of the latter judgment of the Hon'ble Supreme Court in the matter of T.R.Thandur vs. Union of India & Ors. (JT 1996(4)S.C.40). The Hon'ble Supreme Court in the matter of T.R.Thandur(supra) has overruled the judgment of the earlier judgment of the Supreme Court in the matter of S.Vasudeva and has held that the lands which are exempted under section 20(1)(b) of the Act can be transferred since they are exempted from the application of Chapter III of the Act. In view of the above latter judgment of the Supreme Court the impugned order made by the Government requires to be quashed and set aside. The impugned order made by the respondent Annexure-B to the petition is quashed and set aside. The respondent is directed to process the application for exemption made by the petitioners afresh in accordance with law.

Petition is allowed to the aforesaid extent.
Rule is made absolute. There shall be no order as to costs.
